THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1457 of 2007

Dated:22.03.2007

Between:
Smt.Ponnamanda Ramalaxmi.

… Petitioner

AND

The Joint Collector and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1457 of 2007

ORDER:

The petitioner and respondents 4 to 7 herein are related to each other and belong to one family. Respondents 5 to 7 filed an application before the first respondent requesting to issue pattadar pass books in respect of land admeasuring Acs.8.52 cents in Survey No.60/1 situated at Coringa Village. In the said application, the petitioner and the fourth respondent herein were arrayed as respondents 3 and 2. The first respondent, by order dated 18.12.2006, remanded the matter to the second respondent for conducting an enquiry under Section 5-B of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'). The petitioner alleges that she was not given any notice by the first respondent before remanding the matter. It is the further allegation of the petitioner that she filed a suit, being O.S.No.1394 of 2004, on the file of the Court of the I Additional Junior Civil Judge, Kakinada, for permanent injunction, and obtained *ad interim* temporary injunction in I.A.No.1296 of 2004 on 30.09.2004. By reason of the impugned order, respondents 5 to 7 are interfering with her possession. Therefore, the petitioner filed the instant Writ Petition assailing the order of the first respondent.

When the matter was called for preliminary hearing on 06.02.2007, the learned Counsel for the petitioner brought to the notice of this Court that the first respondent did not issue any notice to the petitioner before passing the impugned order. Therefore, this Court directed the learned Assistant Government Pleader for Revenue (General-A) to file counter affidavit and also ordered notice. Respondents 4 to 7 are served with notices and they are represented by a Counsel. Respondents 1 to 3 have filed a counter affidavit

denying the petition allegations that the notice was not served. Therefore, this Court called for the records. A perusal of the record would show that the notice was dispatched from the Office of the first respondent to the petitioner, but the file nowhere contains the acknowledgment in proof of service of notice on the petitioner. On this ground alone, the impugned order cannot be sustained. Be it noted, as alleged by the petitioner, even before the first respondent passed orders, the petitioner had approached the civil Court and obtained *ad interim* injunction in I.A.No.1296 of 2004 from the Court of the I Additional Junior Civil Judge, Kakinada, and therefore, by reason of the impugned order passed behind her back, if the petitioner is dispossessed, it would be gross miscarriage of justice.

Therefore, the impugned order is set aside, and the matter is remanded to the first respondent to consider the case afresh and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. Needless to mention that the first respondent shall have to issue fresh notice to the petitioner as well as respondents 4 to 7 herein before deciding the matter.

The Writ Petition is accordingly disposed of. No costs.

_____

(**V.V.S.RAO, J**)

22.03.2007

Note: Issue C.C by 27.03.2007.

B/o.

vs